

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-0657-MWD-E **TCEQ ID:** RN102343662 **CASE NO.:** 33320
RESPONDENT NAME: Aqua Development, Inc. dba Aqua Texas, Inc.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Shale Creek WWTP, located approximately 4 miles east of the intersection of Interstate 287 and Highway 114, Denton County</p> <p>TYPE OF OPERATION: Domestic wastewater system</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 24, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 751-3048; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Robert L. Laughman, President, Aqua Development, Inc. dba Aqua Texas, Inc., 1421 Wells Branch Parkway, Suite 105, Pflugerville, Texas 78660; Mr. Abel Bautista, Wastewater Compliance Coordinator, Aqua Development, Inc. dba Aqua Texas, Inc., 1421 Wells Branch Parkway, Suite 105, Pflugerville, Texas 78660 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 5, 2007</p> <p>Date of NOE Relating to this Case: April 10, 2007 (NOE)</p> <p>Background Facts: This was a routine records review. Two violations were documented.</p> <p>WATER</p> <p>1) Failure to comply with permitted effluent limits [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a) and TPDES Permit No. WQ0014186001, Interim II Effluent Limitations and Monitoring Requirements No. 1.].</p> <p>2) Failure to submit the discharge monitoring report ("DMR") data. Specifically, the five-day carbonaceous biochemical oxygen demand daily average for the period ending June 30, 2006 for Outfall 001B, and the flow daily maximum at Outfall 001B for the monitoring period ending October 31, 2006 were not reported [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014186001, Monitoring and Reporting Requirements No. 1].</p>	<p>Total Assessed: \$2,574</p> <p>Total Deferred: \$514 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,060</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that on April 30, 2007, the Respondent submitted the discharge monitoring report ("DMR") parameter data for carbonaceous biochemical oxygen demand daily average for the monitoring period ending June 30, 2006, and submitted the DMR parameter data for Flow daily maximum for the monitoring period ending October 31, 2006.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to:</p> <p>Within 60 days after the effective date of this Agreed Order, achieve compliance with permitted effluent limits as required in TPDES Permit No. WQ0014186001, Interim II Effluent Limitations and Monitoring Requirements No. 1, and submit written certification including detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 26, 2007

TCEQ

DATES	Assigned	16-Apr-2007	Screening	27-Apr-2007	EPA Due	
	PCW	30-Apr-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Aqua Development, Inc. dba Aqua Texas, Inc.
Reg. Ent. Ref. No.	RN102343662
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	33320	No. of Violations	2	
Docket No.	2007-0657-MWD-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Heather Brister	
Multi-Media		EC's Team	EnforcementTeam 1	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 **\$2,200**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 20% Enhancement Subtotals 2, 3, & 7 **\$440**

Notes: The Respondent self-reported three months of effluent violations and was issued one NOV for a violation that was considered same or similar.

Culpability No 0% Enhancement Subtotal 4 **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5 **\$0**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Subtotal 6 **\$0**

Total EB Amounts	\$1,742
Approx. Cost of Compliance	\$18,200

0% Enhancement*
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal **\$2,640**

OTHER FACTORS AS JUSTICE MAY REQUIRE -3% Adjustment **-\$66**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes: Recommended reduction to prevent double enhancement of the penalty for same or similar violations that were self-reported.

Final Penalty Amount **\$2,574**

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty **\$2,574**

DEFERRAL 20% Reduction Adjustment **-\$514**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **\$2,060**

Screening Date 27-Apr-2007

Docket No. 2007-0657-MWD-E

PCW

Respondent Aqua Development, Inc. dba Aqua Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33320

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN102343662

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent self-reported three months of effluent violations and was issued one NOV for a violation that was considered same or similar.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

Screening Date 27-Apr-2007

Docket No. 2007-0657-MWD-E

PCW

Respondent Aqua Development, Inc. dba Aqua Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33320

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN102343662

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a) and TPDES Permit No. WQ0014186001, Interim II Effluent Limitations and Monitoring Requirements No. 1.

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on March 5, 2007. See the attached effluent violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was utilized to evaluate the values for ammonia nitrogen and five-day carbonaceous biochemical oxygen demand (CBOD5) to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Flow was also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

91 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,000

Two quarterly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,738

Violation Final Penalty Total \$2,340

This violation Final Assessed Penalty (adjusted for limits) \$2,340

Economic Benefit Worksheet

Respondent Aqua Development, Inc. dba Aqua Texas, Inc.
Case ID No. 33320
Reg. Ent. Reference No. RN102343662
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment	\$16,000	31-Aug-2006	31-Jan-2008	1.4	\$76	\$1,514	\$1,589
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,100	31-Aug-2006	31-Jan-2008	1.4	\$149	n/a	\$149

Notes for DELAYED costs

Estimated cost to repair lift station pumps and to install a new grinder/cut-up pump at the lift station to prevent clogging from debris from a single-family home development construction site. Date required is the first month of noncompliance. Final date is the date of anticipated compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$18,100

TOTAL

\$1,738

Screening Date 27-Apr-2007

Docket No. 2007-0657-MWD-E

PCW

Respondent Aqua Development, Inc. dba Aqua Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33320

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN102343662

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0014186001, Monitoring and Reporting Requirements No. 1.

Violation Description

Failed to submit the discharge monitoring report ("DMR") data, as documented during a record review conducted on March 5, 2007. Specifically, the five-day carbonaceous biochemical oxygen demand daily average for the period ending June 30, 2006 for Outfall 001B, and the flow daily maximum at Outfall 001B for the monitoring period ending October 31, 2006 were not reported.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

30% of the rule requirement was not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 2

280 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$200

Two single events (one for each DMR) are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$234

This violation Final Assessed Penalty (adjusted for limits) \$234

Economic Benefit Worksheet

Respondent Aqua Development, Inc. dba Aqua Texas, Inc.

Case ID No. 33320

Reg. Ent. Reference No. RN102343662

Media Water Quality

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	21-Jul-2006	30-Apr-2007	0.8	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost associated with completing the reports for June and October 2006. Date required is the date the first monthly report was due. Final date is the date the revised DMRs were submitted.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$4

Effluent Limit Violation Table

Respondent: Aqua Development, Inc. dba Aqua Texas, Inc.
Docket Number: 2007-0657-MWD-E

Corresponds to Violation Number: 1

Month/Year	CBOD ₅ Daily Average Concentration Permit limit: 10 mg/L	NH ₃ -N Daily Average Concentration Permit limit: 3 mg/L	NH ₃ -N Single Grab Concentration Permit limit: 15 mg/L
August 2006	11.3	8.8	19
September 2006	c	4.6	c
November 2006	c	12.48	21

CBOD₅=carbonaceous biochemical oxygen demand; NH₃-N=Ammonia Nitrogen;
mg/L=milligrams per liter; c=in compliance

Compliance History

Customer/Respondent/Owner-Operator:	CN600789705	Aqua Development, Inc. dba Aqua Texas, Inc.	Classification: AVERAGE	Rating: 1.68
Regulated Entity:	RN102343662	SHALE CREEK WWTP	Classification: HIGH	Site Rating: 0.00
ID Number(s):	WASTEWATER	PERMIT	WQ0014186001	
	WASTEWATER	PERMIT	TPDES0122661	
	WASTEWATER	PERMIT	TX0122661	
	WASTEWATER	PERMIT	TX0122661	
Location:	4 MILES EAST OF THE INTERSECTION OF INTERSTATE HIGHWAY 287 AND STATE HIGHWAY 114		Rating Date: Repeat Violator:	September 01, 2006 NO
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	April 23, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 23, 2002 to April 23, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
	Name: Ruben Soto		Phone: 512 239-4571	

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 05/05/2003 (236184)
- 2 05/05/2003 (236183)
- 3 05/05/2003 (236182)
- 4 05/05/2003 (236186)
- 5 05/05/2003 (236185)
- 6 07/18/2003 (328432)
- 7 07/18/2003 (328433)
- 8 08/25/2003 (328435)
- 9 02/06/2004 (328430)
- 10 03/08/2004 (328431)
- 11 06/03/2004 (493209)
- 12 06/03/2004 (493210)
- 13 06/03/2004 (493211)
- 14 06/14/2004 (328434)
- 15 07/19/2004 (493212)
- 16 08/13/2004 (493213)
- 17 11/08/2004 (493214)
- 18 11/08/2004 (493215)
- 19 05/18/2006 (506658)
- 20 05/18/2006 (506659)
- 21 05/18/2006 (506660)
- 22 05/18/2006 (506661)
- 23 05/18/2006 (506663)
- 24 05/18/2006 (506664)
- 25 05/18/2006 (506665)
- 26 06/19/2006 (506662)
- 27 07/31/2006 (528805)
- 28 08/18/2006 (528806)
- 29 09/15/2006 (528807)
- 30 11/20/2006 (515769)
- 31 02/09/2007 (539666)
- 32 04/10/2007 (543010)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/31/2006 (528807)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2006
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 11/31/2006
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 11/17/2006 (515769)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 317 317.4(a)(8)
Description: Failure to provide a properly installed backflow prevention assembly device at the plant's main potable water service line.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)
Description: Failure to complete and submit the 2006 annual sludge report (ASR) by September 1, 2006.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failure to properly operate and maintain treatment units.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failure to properly maintain facilities.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT WQ0014186-001
Description: Failure to comply with effluent permit limitations.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.5(b)
Rqmt Prov: PERMIT WQ0014186-001
Description: Failure to comply with sample monitoring frequencies.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)[G]
Rqmt Prov: PERMIT WQ0014186-001
Description: Failure to provide adequate sampling documentation for field analyses.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to accurately compute monthly daily average loading (lbs/day).

F. Environmental audits.
N/A

G. Type of environmental management systems (EMSs).
N/A

H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.
N/A

J. Early compliance.
N/A

Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
AQUA DEVELOPMENT, INC. DBA
AQUA TEXAS, INC.
RN102343662

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-0657-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Aqua Development, Inc. dba Aqua Texas, Inc. ("Aqua") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Aqua appear before the Commission and together stipulate that:

1. Aqua owns and operates a domestic wastewater treatment facility located approximately four miles east of the intersection of Interstate 287 and Highway 114, Denton County, Texas (the "Facility").
2. Aqua has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26. in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and Aqua agree that the Commission has jurisdiction to enter this Agreed Order, and that Aqua is subject to the Commission's jurisdiction.
4. Aqua received notice of the violations alleged in Section II ("Allegations") on or about April 15, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Aqua of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand Five Hundred Seventy-Four Dollars (\$2,574) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). Aqua has paid Two Thousand Sixty Dollars (\$2,060) of the administrative penalty and Five Hundred Fourteen Dollars (\$514) is deferred contingent upon Aqua's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Aqua fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Aqua to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Aqua have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on April 30, 2007, Aqua submitted the discharge monitoring report ("DMR") parameter data for carbonaceous biochemical oxygen demand daily average for the monitoring period ending June 30, 2006, and submitted the DMR parameter data for Flow daily maximum for the monitoring period ending October 31, 2006.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, Aqua is alleged to have:

1. Failed to comply with permitted effluent limits, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014186001, Interim II Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on March 5, 2007, and as shown in the following effluent violation table:

Month/Year	CBOD ₅ Daily Average Concentration Permit limit: 10 mg/L	NH ₃ -N Daily Average Concentration Permit limit: 3 mg/L	NH ₃ -N Single Grab Concentration Permit limit: 15 mg/L
August 2006	11.3	8.8	19
September 2006	c	4.6	c
November 2006	c	12.48	21

CBOD₅=Carbonaceous biochemical oxygen demand; NH₃-N=Ammonia Nitrogen;
mg/L=milligrams per liter; c=in compliance

2. Failed to submit complete discharge monitoring report data, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014186001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on March 5, 2007. Specifically, the five-

day carbonaceous biochemical oxygen demand daily average for the period ending June 30, 2006 and the flow daily maximum for the monitoring period ending October 31, 2006 were not reported.

III. DENIALS

Aqua generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Aqua pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Aqua's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Aqua Development, Inc. dba Aqua Texas, Inc., Docket No. 2007-0657-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that Aqua shall, within 60 days after the effective date of this Agreed Order, achieve compliance with permitted effluent limits as required in TPDES Permit No. WQ0014186001, Interim II Effluent Limitations and Monitoring Requirements No. 1, and submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2301 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon Aqua. Aqua is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Aqua fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Aqua's failure to comply is not a violation of this Agreed Order. Aqua shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Aqua shall notify the Executive Director within seven days after Aqua becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Aqua shall be made in writing to the Executive Director. Extensions are not effective until Aqua receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Aqua in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Aqua, or three days after the date on which the Commission mails notice of the Order to Aqua, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

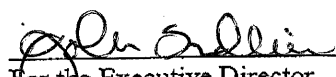
Aqua Development, Inc. dba Aqua Texas, Inc.
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SHALE CREEK

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

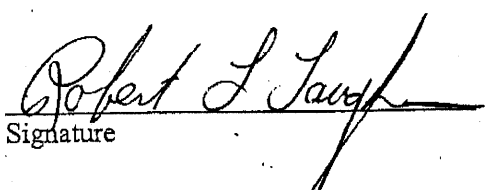
10/18/07
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

AB

Signature

9/19/2007
Date

Robert L. Laughman

President

Name (Printed or typed)

Title

Authorized Representative of

Aqua Development, Inc. dba Aqua Texas, Inc.

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

